

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: 08/23/2022

AVRAHAM YEHUDA,

x

Plaintiff,

:

Index No. 21-cv-07092 (VEC)

-against-

:

MOSHE ZUCHAER, ZUCHAER & ZUCHAER
CONSULTING INC.; and ZUCHAER &
ZUCHAER CONSULTING LLC,

:

Defendants.

:

x

NOTICE OF MOTION**MEMO ENDORSED**

PLEASE TAKE NOTICE, that upon the accompanying Declaration of Steven R. Haffner, dated August 22, 2022; and upon all prior proceedings had herein, Plaintiff, by his attorneys, Gordon & Haffner, LLP, will move this Court before the Honorable Valerie Caproni, on September 12, 2022 at 9:30 a.m., or as soon thereafter as the parties may be heard, at the United States Courthouse, located at 40 Foley Square, Courtroom 443, for an order pursuant to 28 USC § 2107(c) extending Plaintiffs' time to file a notice of appeal from this Court's order dismissing this case for lack of jurisdiction, dated June 21, 2022 (DE #30) and for such other and further relief as this Court deems just and proper.

Dated: August 22, 2022

GORDON & HAFFNER, LLP
Attorneys for Plaintiff

By: /s/Steven R. Haffner

Steven R. Haffner, Esq. (SH 6271)
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Harrison, New York 10528
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VIA ECF

ROSENBERG & STEINMETZ PC
*Attorneys for Defendants Moshe Zuchaer,
Zuchaer & Zuchaer Consulting Inc. and
Zuchaer & Zuchaer Consulting LLC*
181 S Franklin Avenue, Suite 604
Valley Stream, New York 11581

Application GRANTED.

Pursuant to Federal Rule of Civil Procedure 6(c), the thirty day window to request an extension for the time to file an appeal for excusable neglect provided by 28 U.S.C. § 2107(c) extended through Monday, August 22, 2022, as the first working day after the last day of the thirty day period, which fell on Saturday, August 20, 2022. Accordingly, the Court evaluates "[1] the danger of prejudice to the non-movant, [2] the length of the delay and its potential impact on judicial proceedings, [3] the reason for the delay, including whether it was within the reasonable control of the movant, and [4] whether the movant acted in good faith." *Alexander v. Saul*, 5 F.4th 139, 143 (2d Cir. 2021) (internal quotation omitted) (alterations in original).

The Court finds that there is little danger of prejudice, the delay of approximately thirty days is not likely to meaningfully impact judicial proceedings, and Plaintiff's counsel acted in good faith. *See id.* at 149 ("In the typical case, the first two . . . factors will favor the moving party, and rarely . . . is the absence of good faith at issue." (cleaned up)). Because counsel indicates that the delay was due to a medical condition beyond his control, the Court also finds that the reason for the delay was not within counsel's control.

SO ORDERED.

 08/23/2022

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE